IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 1224/2002

RAISINGHNAGAR KRIYA VIKRIYA SAHKARI SAMITI LIMITED
Vs.
THE MINISTER OF STATE FOR COOPERATIVE DEPARTMENT & ORS.

DATE: 24.09.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. R.K. Sharma for the petitioners.
Mr. B.S. Chhaba, Dy. GA for the State.
Mr. Rajkumar for
Mr. Mahendra Goyal for the respondents.

****

Learned counsel appearing for the respondent No.2 pleads no instruction.

Heard learned counsel for the petitioners as well as learned Govt. Advocate appearing for the State.

Petitioner Raisinghnagar Kriya Vikriya Sahkari Samiti Ltd. through its Chief Executive Officer/ General Manager has preferred the instant writ petition against the order impugned dated 08.01.2002 (Annexure-4) of the Minister of State for Co-operative Department.

The Minister of State for Co-operative Department vide its order impugned dated 08.01.2002, having considered the revision petition filed under

Section 128 of the Rajasthan Co-operative Societies Act, 1965 (For short 'the Act of 1965') against the order dated 23.05.90 passed by the Chairman, Raisinghnagar Kriya Vikriya Sahkari Samiti Ltd., Raisinghnagar, remanded the matter with the direction to decide the same afresh after making enquiry.

The aforesaid order dated 08.01.2002 is under challenge in this writ petition on the ground that Section 128 of the Act of 1965 provides for the power of Government and Registrar to call for proceeding of subordinate officers and to pass orders thereupon.

Section 128 of the Act of 1965 clearly provides, firstly, that the revision would lie against the order, decision or proceedings of the officers subordinate to the Government or the Registrar; secondly, that the application for revision has to be filed within 90 days of the date of communication of the order, decision or proceedings.

Here in the instant case, the Society or its Managing Committee/ Board of Director/ Administrator which passed the order dated 23.05.90, is not subordinate to the Registrar or the State Government and, therefore, the revision petition was not maintainable for want of jurisdiction.

In support of his submissions, the learned counsel for the petitioners placed reliance on the **judgment dated 11.09.2007 rendered by the Jodhpur High Court in S.B. Civil Writ Petition No. 3887/2006- - Jodhpur Nagrik Sahkari Bank Ltd. Vs. State of Rajasthan and others**, wherein the co-ordinate Bench of the Jodhpur High Court having considered the similar controversy involved in that writ petition, observed that as per the provisions of Section 107 of the Act of 2001, the Registrar in case where action has been taken by any officer subordinate to the Registrar and the State Government, in case where action has been taken by the Registrar may, on their own motion or on an application of any aggrieved person, call for and examine the record of any enquiry or the proceedings of all such matters in which an action has been taken under the Act of 2001. The State Government, thus, is empowered to revise an order passed by the Registrar or even by an Officer subordinate to the Registrar. Thus, the Board of Directors and Managing Director of the writ-petitioner Bank are not officers subordinate to the Registrar or the State Government and, therefore, no revision petition under Section 107 could have been entertained by the Minister and, therefore, the writ petition was allowed and the revision petitions

preferred by the petitioner challenging the orders passed by the appellate authority and the disciplinary authority have been dismissed observing that the respondent shall be having liberty to avail appropriate remedy for redressal of his grievance relating to the orders impugned in the revision petitions referred above.

Having considered the ratio decided by the co-ordinate Bench of the Jodhpur High Court in the aforementioned case of **Jodhpur Nagrik Sahkari Bank Ltd. Vs. State of Rajasthan and others (supra),** the provisions of Section 128 of the Act of 1965 are paramateria to Section 107 of the Act of 2001 and provide power of revision against the order passed by the Registrar or by officer subordinate to the Registrar and in the instant writ petition, order passed by the Board which is not subordinate officer to the Registrar.

In view of the aforesaid observations, the revision petition before the Minister is not maintainable and therefore, the order impugned dated 08.01.2002 passed by the Minister of State for Co-operative Department is hereby quashed and set-aside. The respondent No.2 is having liberty to avail appropriate remedy for redressal of his grievance

relating to the orders impugned in the revision petition.

The writ petition stands allowed accordingly.

(K.S. RATHORE),J.

/KKC/